

## REMARKS CONCERNING CLAIM REJECTIONS

Claims 1-32 were rejected under 35 U.S.C. §103(a) as being unpatentable over Klaue et al. in view of Frigg et al. Applicants respectfully submit that the necessary suggestion and motivation to combine these two references is not present. The Examiner notes the system of Klaue et al. for having most of the features claimed in the present application and the system of Frigg et al. for having the remaining features. The Examiner, however, does not make a *prima facie* obviousness case as there is no identification or discussion of any motivation or suggestion to combine these two references.

Klaue et al. discloses a bone plate 420, having an upper surface 424, a lower surface 423, a borehole 421 which extends from the upper surface to the lower surface. The bone screw 415 fastens the plate to bone through the borehole 421, which has an internally-threaded hollow protrusion 401 and which projects beyond the lower surface 423 of the plate 420. The outer surface 408 of the protrusion 401 is tapered conically. The plate 420 has greater thickness where there is a protrusion. Unlike the features of independent claims 1, 16, 20, and 24, the borehole 421 is not threaded from the upper surface to the lower surface (more specifically, borehole 421 is not threaded above the point of the hollow protrusion); the head of the bone screw 415 is not threaded; the internal cavity of the protrusion 401 is not tapered; and the shaft of the bone screw 415 is not tapered. There is no suggestion or motivation in Klaue et al. to disregard the features described in the foregoing sentence and adopt a system with a tapered flange or hole (as required by independent claims 16 and 20), holes having threads extending substantially from the upper surface to the lower surface (as required by independent claims 1, 16, 20, and 24), and a screw with a threaded head (as required by independent claims 16 and 20), which is tapered (as required by independent claim 16).

Frigg et al. discloses a bone plate 1 having plate holes 3 which taper toward a bone contact surface 2 and which have internal threads 8. Bone screws 4 have external threads 9 which mate with internal threads 8 of plate holes 3. The bone plate 1 has no protrusions or tapered flanges and has a plate thickness that does not vary. There is no suggestion or motivation in Frigg et al. to disregard all of the features described in the foregoing sentence and adopt a system with a bone plate that does have protrusions and tapered flanges (as required by independent claims 1, 16, 20, and 24), or a bone plate that has both a nominal plate thickness and increased plate thickness (as required by independent claim 16).

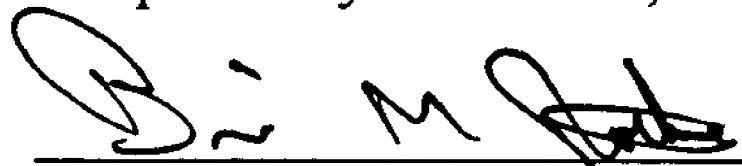
Thus, Applicants respectfully submit that the necessary suggestion and motivation to combine these two references is not present, that the combination of features set forth in claims 1-32 are not obvious, and that therefore claims the rejection 1-32 should be withdrawn.

In light of the above remarks, Applicants respectfully request that the Examiner reconsider this application with a view towards allowance. The Examiner is invited to call the undersigned attorney at (212) 790-6295, if a telephone call could help resolve any remaining items.

No fee is believed to be due at this time. Should any fees be required, however, please notify us, upon which time we will provide prompt payment.

Respectfully submitted,

Date: January 5, 2004

  
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